

EXHIBIT 43

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HUNTERS CAPITAL, LLC, et al.,)
 Plaintiffs,)

 vs.) No. 20-cv-00983-TSZ

CITY OF SEATTLE,)

 Defendant.)

ZOOM VIDEO-RECORDED DEPOSITION UPON ORAL EXAMINATION
OF
MICHAEL MALONE

ATTENDANCE OF ALL PARTICIPANTS VIA
ZOOM VIDEO CONFERENCE

9:00 a.m.

August 22, 2022

REPORTED BY: Lauren G. Harty, RPR, CCR #2674

1 Whose idea was it to -- to look into filing
2 the lawsuit?

3 MR. REILLY-BATES: Object to the form.

4 A. Could be my idea. I think it was a
5 collective idea.

6 Q. (By Mr. Cramer) Okay.

7 But -- collective idea meaning you and
8 perhaps Oaksmith and Cronaeur?

9 A. Yes.

10 Q. And did you -- did you personally ask other
11 businesses in the area if they wanted to join?

12 A. I didn't, but we did, yes.

13 Q. Okay.

14 Did you participate in any meetings with
15 the -- the group of business owners about potentially
16 filing a lawsuit?

17 A. Not that I recall.

18 Q. Did you participate in any meetings in the
19 back room at the liquor store?

20 A. I did not.

21 Q. At some point someone was -- was shot and --
22 and killed around Rancho Bravo. Do you recall that
23 event?

24 A. Yes.

25 Q. Okay.

1 What do you recall about that event?

2 A. At least one bullet was lodged into our --
3 our building, one of our buildings.

4 Q. Okay.

5 And -- and that's the -- the building that's
6 not your building, right; that's the building across
7 the street?

8 A. No. It's the --

9 Q. Okay.

10 A. -- in the Blick Building.

11 Q. Okay.

12 So where -- where in the Blick Building?

13 A. On the corner of Pine and -- East Pine and
14 Broadway.

15 Q. No. I -- so where was the bullet lodged?

16 A. Where was the what?

17 Q. Oh. You said there was a bullet lodged
18 in --

19 A. Yes.

20 Q. -- your --

21 And I'm just asking where --

22 A. Second --

23 Q. -- in the building.

24 A. Second floor of that building, broke the
25 window and lodged into the -- one or two bullets

1 into -- into the beam.

2 Q. Okay.

3 And who rents that space where the bullets
4 broke the window and -- and lodged into a beam?

5 A. A tech company.

6 Q. Okay.

7 And it -- that occurred in the middle of the
8 night, right?

9 A. Correct, about 10:30.

10 Q. About when?

11 A. I think it was about 10:30 at night, yeah.

12 Q. And is this the incident that occurred on --
13 on June 20th?

14 A. When the -- the kid was killed --

15 Q. Okay.

16 A. -- yes.

17 Q. Was anybody in the -- the tech office when
18 that occurred?

19 A. No.

20 Q. Okay.

21 And did the police come out and, you know,
22 retrieve the bullets and that type of thing?

23 A. They did.

24 Q. Okay.

25 And did they do that -- when did they do

1 that?

2 A. After -- after the bullets were shot.

3 Q. Okay.

4 Was it within the -- a day or so?

5 A. Yeah, within a day, next day.

6 Q. The next day they came out? Okay.

7 And that building, remind me, is at the
8 corner of Nagle and Pine?

9 A. Correct.

10 Q. Okay.

11 So right across the street from the -- the
12 park.

13 A. Yes.

14 Q. Okay.

15 Did -- did the police officers talk to you
16 about the incident as the landlord?

17 A. I -- not me, no.

18 Q. Okay.

19 Do you know whether they talked to
20 Mr. Oaksmith or -- or Ms. Cronaeur?

21 A. I think Jill Cronaeur dealt with it.

22 Q. Did you know whether there were an arrest
23 made as a result of that shooting?

24 A. I believe so, but I'm not sure.

25 Q. And did you have any discussions with

1 A. Again, I -- I would not know whether it was
2 or was not.

3 Q. (By Mr. Cramer) Okay.

4 And like the building across the street,
5 this one is also outside the CHOP? Is that fair?

6 A. Correct.

7 Q. Okay.

8 We don't have a map for the Coleman Auto
9 Building. That was the one that was at 401 Pine
10 Street. But looking at this map can you ballpark
11 where the Coleman Auto Building would be?

12 A. Where -- what -- oh. Oh, I know what
13 building it is, yes.

14 Q. And -- and would it be correct if I were to
15 say that it's the building on Crawford and Pine across
16 Crawford from the label there that says, "Plant
17 Shop..."?

18 A. Yes.

19 Q. Okay.

20 Are you aware of any barricades that would
21 have prevented access to the Coleman Auto Building in
22 June of 2020?

23 A. I -- I wouldn't know whether there were or
24 were not.

25 Q. Okay.

1 And are you aware of any calls for police or
2 fire service to the Coleman Auto Building that went
3 not responded to in June of 2020?

4 MR. REILLY-BATES: Objection; foundation.

5 A. I -- I wouldn't know whether there were or
6 were not.

7 Q. (By Mr. Cramer) Okay.

8 And are you aware of any missed City
9 services that occurred at the Coleman Auto Building in
10 June of 2020?

11 MR. REILLY-BATES: Objection; foundation.

12 A. Again, I -- I wouldn't know if there were or
13 were not.

14 Q. (By Mr. Cramer) Okay.

15 And as with the -- the Dunn Building and the
16 Greenus Building, you'd agree that the Coleman
17 Building is also outside of the CHOP, correct?

18 A. Yes.

19 Q. Okay.

20 We're going to look at 181, if you'll open
21 it. And is this an offering for the Broadway
22 Building?

23 MR. REILLY-BATES: We're still opening it.

24 Q. (By Mr. Cramer) Sorry. Not for the whole
25 building.

1 our street, but I'm asking you, the -- the street does
2 not belong to Hunters Capital, correct?

3 MR. REILLY-BATES: Object to the form to the
4 extent it -- you're -- you're not including the all of
5 ours in that reference. Mr. Malone is referring to
6 all of ours as in the community's.

7 MR. CRAMER: I think Mr. Malone can testify
8 for himself.

9 A. Well, I -- I don't have to testify. It's
10 right there in the statement, our -- all of ours.

11 Q. (By Mr. Cramer) Okay.

12 But it's not BLM's.

13 A. It's -- and it's not ours. It's all of
14 ours.

15 Q. So --

16 A. It's --

17 Q. -- it's -- you say, "It's our street,
18 sidewalk and park, all of ours. Not" --

19 A. Yes.

20 Q. -- BLM's or anyone" --

21 A. That's --

22 Q. -- "else's."

23 A. That's right.

24 Q. So you're saying that --

25 A. It's --

1 Q. -- it's --

2 A. -- public.

3 Q. Okay.

4 So BLM has a right to it.

5 A. Of course.

6 Q. Okay.

7 The -- the same right that you would have to
8 it, correct?

9 A. Yeah.

10 Q. Okay.

11 And you say, "We pay dollars in taxes to
12 MAINTAIN our streets..."

13 Do members of BLM also pay taxes to maintain
14 the streets?

15 A. Well, I hope so.

16 Q. Okay.

17 And those tax dollars that BLM pays, just
18 like you do, also go to maintain sidewalks, right?

19 MR. REILLY-BATES: Object to the form; calls
20 for speculation, foundation. How can he possibly know
21 that, Shane?

22 A. Well, maybe you should identify BLM.

23 Q. (By Mr. Cramer) What are you referencing
24 when you're saying, "We pay dollars in taxes to
25 MAINTAIN our streets, sidewalks, safety and freedom of

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, the undersigned Washington Certified Court Reporter, hereby certify that the foregoing deposition upon oral examination of MICHAEL MALONE was taken before me on August 22, 2022, and transcribed under my direction;

That the witness was duly sworn by me pursuant to RCW 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for nor a relative or employee of any of the parties to the action or any attorney or counsel employed by the parties hereto, nor am I financially interested in its outcome;

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition within 30 days upon its completion and submission, unless waiver of signature was indicated in the record.

IN WITNESS WHEREOF, I have hereunto set my hand
this 29th day of August, 2022.


LAUREN G. HARTY, CCR #2674

